
BOARD NOTICES • RAADSKENNISGEWINGS

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ALLIED HEALTH PROFESSIONS OF SOUTH AFRICA

**CODE OF ETHICS IN TERMS OF SECTION 54(9) OF REGULATIONS NO.R.127 OF
12 FEBRUARY 2001 TO THE ALLIED HEALTH PROFESSIONS ACT, ACT 63 OF
1982, AS AMENDED**

INCLUDING

GUIDELINES FOR GOOD PRACTICE

AND

GUIDELINES FOR MAKING

PROFESSIONAL SERVICES KNOWN

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SECTION 1: DEFINITIONS

In the Act and Regulations, any word or expression to which a meaning has been assigned shall have the meaning so assigned unless the context indicates otherwise.

“advertisement” means any written, illustrated, visual or other descriptive material or verbal statement or reference –

- (a) which appears on the Internet, in a newspaper, magazine, pamphlet or other publication;
- (b) which is distributed amongst members of the public;
- (c) which has been fixed on to or appears on walls, windows, boards or vehicles; or
- (d) which is brought to the attention of members of the public in any other manner whatsoever,

and which is meant to promote a specific practice or a specific practitioner’s technique or to make known a specific practitioner’s professional proficiency or knowledge and

“advertising” has a corresponding meaning;

“association” is a form of practising where two or more practitioners practice for their own account, but share communal assets;

“bona fide patient” shall mean a patient who has at any time previously been treated by the practitioner concerned;

“bona fide practitioner-patient relationship” means a treatment or counselling relationship between a practitioner and patient in which all the following are present –

- (a) The practitioner has reviewed the patient’s relevant medical records and completed a full assessment of the patient’s medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient, and
- (b) The practitioner has created and maintained records of the patient’s condition in accord with medically accepted standards;

“canvassing” means conduct which draws attention, either verbally or by means of printed or electronic media, to one’s personal qualities, superior knowledge, quality of service, professional guarantees or best practice;

“Council” means the Allied Health Professions Council of South Africa established by Section 2 of the Act;

“disciplinary inquiry” means an inquiry held in terms of Chapter 3 of the Act by the Council or a ‘professional board’, acting under powers delegated to it by the Council;

“Health Professions Act, 1974” means the Health Professions Act, 1974 (Act No. 56 of 1974, as amended);

“impairment” means a mental or physical condition which affects the competence, attitude, judgement or performance of professional acts by a practitioner, and **“impaired”** has a corresponding meaning;

“itinerant practice” means a practice which a practitioner conducts on a regular basis at a location other than at his or her resident practice address;

“pharmaceutical concern” means a company registered as such under the Pharmacy Act, 1974 (Act No. 54 of 1974) or company established with the objective of selling or distributing therapeutic medicines or substances for profit;

“practitioner” means a person registered as an acupuncturist, ayurveda practitioner, chiropractor, homoeopath, naturopath, osteopath or phytotherapist, in terms of the Act and for the purposes of this Code shall include a Chinese medicine practitioner, Unani-Tibb practitioner, therapist, student and also a juristic person exempted from registration in terms of Section 38C of the Act;

“private practice” means a practice where a practitioner works for his or her own account;

“profession” means any registered allied health profession;

“professional board” means a professional board established in terms of section 10A of the Act;

“**professional designation**” means the profession, registered category and speciality if applicable;

“**qualification**” means any degree, diploma or certificate awarded after examination of a person's proficiency in a particular subject;

“**register**”, as a noun, means a register kept in terms of this Act, and when used in relation to any category or any member of any category of persons in respect of whom a register is kept, the register kept in respect of that category; and as a verb, means to enter in a register under this Act, and the words “**registered**” and “**registration**” and all other words derived from the word “**register**” shall have a corresponding meaning;

“**registrar**” means the registrar of practitioners and students appointed in terms of section 11(1) of the Act;

“**registration certificate**” means a registration certificate issued in terms of any regulation made under section 38(1)(g) of the Act;

“**regulation**” means any regulation made in terms of the Act;

“**residence**” means any dwelling, flat, room, suite or set of rooms used by a person registered in terms of the Act, or his or her family or other persons for residential purposes;

“**rule**” means any rule made in terms of the Act;

“**the Act**” means the Allied Health Professions Act, 1982 (Act 63 of 1982), and includes any regulation, rule or order made or issued in terms of the Act;

“**therapist**” means a person registered as a therapeutic aromatherapist, therapeutic massage therapist or therapeutic reflexologist in terms of the Act;

“**touting**” means conduct which draws attention, either verbally or by means of printed or electronic media, to one's offers, guarantees or material benefits; and

“**unprofessional conduct**” means improper, disgraceful, dishonourable or unworthy conduct or conduct which, when regard is had to the profession of a person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy.

SECTION 2: SCOPE OF PRACTICE

Section 2 of the Act provides as follows:

(2) For purposes of this Act –

(a) a practitioner may-

(i) diagnose, and treat or prevent, physical and mental disease, illness or deficiencies in humans;

(ii) prescribe or dispense medicine; or

(iii) provide or prescribe treatment for such disease, illness or deficiencies in humans;

(b) a therapist may-

(i) treat or provide treatment for diagnosed disease, illness or deficiencies in humans; or

(ii) prevent such disease, illness or deficiencies in humans; and

(c) any reference in this Act, except in section 16(3), (4), (5) and (6), to practitioner includes a therapist

SECTION 3: CODE OF ETHICS

A. INTRODUCTION

Registration with the Allied Health Professions Council of South Africa (AHPCSA) confers on practitioners the right and privilege to practise those allied health professions for which they have been registered in terms of the Act. Correspondingly, practitioners have moral and ethical duties to others and society given that the fundamental premise of any healthcare professional is the recognition that responsibility is owed to the patient first and foremost, as well as to society, to other health professionals, and to self¹. The core values and standards referred to below in the Principles of Medical Ethics are the foundation for the general and/or aspirational ethical guidelines. It is impossible to develop a complete set of specific ethical prescriptions applicable to all conceivable practitioner/patient interaction. These guidelines are, therefore, designed to assist the practitioner in deciding what course of action would be most ethically appropriate according to each situation.

B. PRINCIPLES OF MEDICAL ETHICS

1. Respect for persons

Respect patients as persons, and acknowledge their intrinsic worth, dignity, and sense of value.

2. Best interest or well-being: Beneficence

Do not harm patients or act against their best interests, even when they conflict with your self-interest.

3. Human Rights and Dual Loyalty

Act in the best interests of patients and respect their human rights, even when these rights are in conflict with state or non-state authorities.

4. Rights of the Individual

Recognise that some interests of individuals may be so important that they acquire the status of human rights in the form of either claims or freedoms to be respected by all.

5. Autonomy

Honour the patients' right to self-determination or to make their own informed choices, living their lives by their own beliefs, values and preferences.

6. Integrity

Incorporate core ethical values and standards as the foundation for good character and responsible practice.

7. Truthfulness

In professional relationships with patients, regard the truth and truthfulness as the basis of trust.

8. Confidentiality

In professional relationships with patients, treat personal and/or private information as confidential, unless overriding reasons confer a moral right to disclosure.

9. Compassion

Be sensitive to and empathise with individual and social needs for comfort and support in a manner becoming of a healthcare professional.

10. Justice

Treat all individuals and groups in an impartial, fair and just manner.

11. Recognition of Diversity

Respect the rights of people to be different and to have different beliefs.

12. Professional competence and self-improvement

Continually endeavour to attain the highest level of knowledge and skills required within your area of practice.

13. Community

Consistent with your professional abilities and standing in the community, strive to contribute to the betterment of society.

C. DUTY AND OBLIGATION**1. A duty is an obligation or responsibility to act or withhold action and may be ethical, legal, or both. Duties are inherent to the personal, social, professional and political spheres of our lives. Accordingly, there are different kinds of duties:**

(a) For human beings there are “natural duties”, namely un-acquired general duties simply because we are members of the human community. These are the natural duties to refrain from doing harm, to promote the good, or to be fair and just;

(b) For practitioners there are “moral obligations”, namely general duties we acquire by being qualified and registered as practitioners. These are the professional duties to provide healthcare, relieve pain, gain informed consent, respect confidentiality and be truthful, for example;

(c) For practitioners working in specific institutions or settings there are “acquired duties” specific to the particular institutionalised role or position. These are the duties of a health professional employed in a hospital, an educational institution or in a healthcare practice. These duties are circumscribed in employment contracts, job descriptions, conventional expectations, and the like; and

(d) “Legal duties” are duties imposed by the common law and by statute law, for example, the Act.

D. DUTY TO THE PATIENT**1. Patients' well-being or best interests**

- (a) Always regard concern for the best interests or well-being of your patients as your primary professional duty.
- (b) Be aware of the possibility of conflict of interest with regard to human rights and dual loyalties.
- (c) Honour the trust of your patients.
- (d) Be mindful that a practitioner is in a position of influence and authority over a patient and avoid abusing your position.
- (e) Within the normal constraints of your practice, be accessible to patients when you are on duty, and make arrangements for access when you are not on duty or suitable alternative arrangements;
- (f) Make sure your personal beliefs do not prejudice your patients' care. Beliefs that might prejudice care relate to patients' race, culture, ethnicity, social status, lifestyle, perceived economic worth, age, gender, disability, communicable disease status, sexual orientation, religious or spiritual beliefs, among other.
- (g) If you feel your beliefs might affect the treatment you provide, explain this to your patients, and inform them of their right to see another professional.
- (h) Do not refuse or delay treatment because you believe that patients' actions have contributed to their condition.
- (i) Apply your mind when making assessments and considering appropriate treatment.
- (j) Act quickly to protect patients from risk if you believe yourself to be impaired.
- (k) Respond to criticism and complaints promptly and constructively.
- (l) Inform your patients if you are in the employ of, in association with, linked to, or have an interest in any organisation or facility that could be interpreted by an average person as potentially creating a conflict of interest or dual loyalty in respect of your patient care.
- (m) Provide healthcare in emergency situations within the limits of your practice, experience and competency. If unable to do so, refer the patient to a colleague who can provide the required care.

2. Respect for patients

- (a) Respect patients' privacy and dignity.
- (b) Treat patients politely and with consideration.
- (c) Listen to your patients and respect their opinions.
- (d) Avoid relationships with patients, which when regard is had to the circumstance, obligations, interest and duties of the relationship, may be deemed to be improper, inappropriate or exploitative, including sexual, financial or social relationships.
- (e) Guard against human rights violations of patients, and do not allow or participate in any actions that lead to the violations of the rights of patients.

3. Informed consent

- (a) Informed consent is governed by Sections 6 to 9 of the National Health Act, (Act No. 61 of 2003).
- (b) Treatment may not be provided to a patient without his/her informed consent.
- (c) Informed consent to the treatment must be obtained before a treatment commences and the principle of informed consent during the treatment must also be applied.
- (d) In terms of Section 6(2) of the National Health Act you are required to explain to the patient in language and terminology that is easily understood by the patient and in a manner which takes into account the user's level of literacy and in terms of Section 6(1) of this Act every healthcare provider must inform a user of -
 - (a) *the user's health status except in circumstances where there is substantial evidence that the disclosure of the user's health status would be contrary to the best interests of the user;*
 - (b) *the range of diagnostic procedures and treatment options generally available to the user;*
 - (c) *the benefits, risks, costs and consequences generally associated with each option; and*

- (d) *the user's right to refuse health services and explain the implications, risks, obligations of such refusal.*
- (e) The practitioner must respect the patient's autonomy and self-determination in that, on receiving sufficient information regarding the treatment, the patient can decide whether or not to continue with the treatment.
- (f) The practitioner should respect the right of the patient to seek another medical opinion before continuing with any treatment.

4. Patient confidentiality

- (a) In terms of Section 14 of the National Health Act, practitioners are required to maintain confidentiality with regard to all information concerning a user, including information relating to his or her health status, treatment or stay in a health establishment.
- (b) Recognise the right of patients to expect that you will not breach the confidentiality of any information you acquire in the course of your professional duties, unless they agree to disclosure, or unless you have a legal obligation to do so as, for example, the statutory obligation to report any breach of children's rights in terms of the Children's Act, 2005 (act 38 of 2005) or, for example, in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), the Mental Health Act, 1973 (Act 18 of 1973), or the Older Persons Act, 2006 (Act 13 of 2006).
- (c) In terms of Section 15 of the National Health Act:
A health worker or any health care provider that has access to the health records of a user may disclose such personal information to any other person, health care provider or health establishment as is necessary for any legitimate purpose within the ordinary course and scope of his or her duties where such access or disclosure is in the interests of the user.

5. Patient participation in their own healthcare

- (a) Respect the right of patients to be fully involved in decisions about their treatment and care.
- (b) Respect the right of patients to refuse treatment or to take part in teaching or research.
- (c) Inform your patients that they have a right to seek a second opinion without prejudicing their future treatment.

6. Impartiality and justice

- (a) Be aware of the rights and laws concerning unfair discrimination in the management of patients or their families on the basis of race, culture, ethnicity, social status, lifestyle, perceived economic worth, age, gender, disability, communicable disease status, sexual orientation, religious or spiritual beliefs, among other, or such as may be prescribed in legislation.

7. Record keeping

Accurate record-keeping must include:

- (a) Personal particulars of the patient.
- (b) History of the patient's health conditions.
- (c) The time, date and concise information of every consultation.
- (d) The assessment of the patient's condition.
- (e) The proposed healthcare management of the patient.
- (f) Details of referrals to other health professionals, if any.
- (g) The patient's reaction to treatment, including adverse effects.
- (h) Self-serving or disapproving comments should be avoided in patient records.
- (i) Written proof of informed consent, where applicable.
- (j) Records must be retained for the period of time prescribed by relevant legislation that applies to the particular circumstance.
- (k) Accounting records must be kept separately from patient care records.

8. Access to care

Promote access to healthcare. If you are unable to provide a service, refer the patient to another practitioner or other healthcare provider or to a healthcare facility, which can provide the required service.

9. Potential conflicts of interest

- (a) Always seek to give priority to the investigation and treatment of patients solely on the basis of clinical need.
- (b) Avoid over-servicing. Recommend or refer your patients for necessary investigations and treatment only. Prescribe only treatment, drugs or appliances that serve patients' needs.
- (c) Declare any potential conflict of interest to your patients.
- (d) Refrain from placing pressure on patients or their family to give you gifts or any other undue benefit.

E. DUTY TO COLLEAGUES AND OTHER PROFESSIONALS**1. Referrals to colleagues and potential conflicts of interest**

- (a) Act in your patients' best interest when making referrals and providing or arranging treatment or care. Do not ask for or accept any inducement, gift, or hospitality from other practitioners, healthcare providers or related healthcare services because it may affect or be seen to affect your judgment.
- (b) Treat patients referred to you in the same manner in which you treat your own patients.

2. Working with colleagues

- (a) Work with and respect other practitioners or registered healthcare providers in pursuit of the best healthcare possible for all patients.
- (b) Support colleagues who uphold the core values and standards embodied in these guidelines.
- (c) Do not unfairly discriminate against colleagues, including professionals applying for posts, because of your views on their race, culture, ethnicity,

social status, lifestyle, perceived economic worth, age, gender, disability, communicable disease status, sexual orientation, religious or spiritual beliefs, or any condition of vulnerability.

- (d) Refrain from speaking ill of colleagues or other healthcare providers.
- (e) Do not make a patient doubt colleagues' knowledge or skill by making comments about them that cannot be fully justified.

3. Duties to other professionals' patients

- (a) Act quickly to protect patients from risk if you believe a colleague to be impaired.
- (b) Report violations and seek redress in circumstances through appropriate channels where you have good or persuasive reason to believe that the rights of patients are being violated, or are required to do so in law.

F. DUTY TO YOURSELF

1. Knowledge and skills

- (a) Maintain and improve the standard of your performance by keeping your professional knowledge and skills up to date throughout your working life. In particular, regularly take part in educational activities that relate to your branch or discipline of healthcare, over and above any obligation as prescribed by the AHPCSA Continuing Professional Development policy requirements.
- (b) Acknowledge the limits of your professional knowledge and competence. Do not pretend to know everything.
- (c) Since there are laws that govern aspects of professional healthcare practice, observe and keep up to date with those that affect your practice.

2. Maintaining a professional practice

- (a) Keep your healthcare equipment in good working order.
- (b) Maintain proper operating procedures and hygiene in your working environment.
- (c) Keep accurate and up-to-date patient records.

- (d) Refrain from engaging in activities that may affect your health and lead to impairment.

G. DUTY TO SOCIETY

1. Access to scarce resources

Deal responsibly with scarce healthcare resources. Refrain from providing a service that is not needed by a specific patient, whether it provides financial gain or not. Refrain from unnecessary wastage, and from participating in improper financial arrangements, especially those that escalate costs and disadvantage individuals or institutions unfairly.

2. Healthcare policy development

Include ethical considerations and human rights in the development of healthcare policies, taking into consideration also environmental legal requirements and animal rights.

H. DUTY TO YOUR PROFESSION

1. Reporting misconduct

- (a) Report violations and seek redress in circumstances where you have good or persuasive reason to believe that the rights of patients or other practitioners are being violated by the action of another practitioner.
- (b) Where it is in your power, protect someone who reports misconduct from victimisation or intimidation.

2. Access to appropriate healthcare

Promote access to healthcare. If you are unable to provide a service, refer the patient to another professional or healthcare facility.

I. DUTY TO THE ENVIRONMENT**1. Conservation of natural resources**

Recognise that natural resources are limited and guard against their exploitation. Choose sustainable options wherever possible and ensure that local and international conventions, such as CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora), are respected.

2. Disposal of healthcare waste

Protect the environment and the public by assuring that healthcare waste is disposed of legally and in an environmentally friendly manner.

SECTION 4: RULES/AHPCSA POLICY SPECIFYING THE ACTS OR OMISSIONS IN RESPECT OF WHICH THE ALLIED HEALTH PROFESSIONS COUNCIL MAY TAKE DISCIPLINARY STEPS AS PROVIDED FOR IN THE ACT AND THE REGULATIONS THERETO AND AHPCSA POLICY DECISIONS AS MAY BE ISSUED FROM TIME TO TIME.

The following acts are not permitted (Paragraph E below excepted which is worded to allow information to be printed on professional stationery):

A. ADVERTISING

Advertising his or her services *in a manner which contravenes the provisions as stipulated in the AHPCSA Guidelines For Making Professional Services Known* [see Section 5] or acquiescing to, permitting, or sanctioning such advertising.

B. CANVASSING AND TOUTING

Directly or purposefully canvassing or touting for patients in whatever manner.

C. ITINERANT PRACTICE

An itinerant practice may not be pursued unless a practitioner, on a regular basis, which shall be at least once a month, provides a full and satisfactory service to his patients, similar to the service which he provides in the place where he pursues his main practice, with such itinerant consulting rooms also meeting the

requirements prescribed by the Regulations.

D. PRACTICE NAME

The use of a name for a private practice by a practitioner of -

- (a) Any name or expression, except the practitioner's own name or where practitioners practise in partnership or as a juristic person, as the name of such partnership or as a juristic person, the names of such practitioners; and
- (b) The expression "*hospital*" or "*clinic*" or any other special term that could create the impression that such a practice forms a part of, or is in association with, a hospital, clinic or similar institution.

E. INFORMATION ON PROFESSIONAL STATIONERY

1. A practitioner is allowed the printing or commissioning of printing on stationery for the purposes of the practice, limited to the following information:
 - (a) the name of the practitioner, partnership or juristic person;
 - (b) professional designation;
 - (c) an ideogram or logo;
 - (d) registered qualifications, professional qualifications or academic qualifications and honorary degrees in abbreviated form;
 - (e) membership of any professional association;
 - (f) addresses (including e-mail and website addresses);
 - (g) telephone numbers;
 - (h) hours of consultation;
 - (i) Council registration number and practice number;
 - (j) dispensing licence number or compounding and dispensing licence number if applicable;
 - (k) other legal financial requirements, such as a VAT registration number; and
 - (l) practice banking details.
2. The use of any stationery bearing the name and address of a pharmacist, pharmacy or health shop or any details other than that of practice concerned is disallowed.

F. FEES AND COMMISSIONS

- (a) The acceptance by a practitioner of commission from a person or another practitioner in return for the purchase, sale or supply of any goods, substances or materials used by him or her in the conduct of his or her professional practice.
- (b) Paying commission to any person for recommending patients.
- (c) Sharing fees with any person or practitioner who has not taken a commensurate part in the services for which the fees are charged.
- (d) Charging or receiving fees for services not personally rendered, except for services rendered by another practitioner with whom he or she is associated as a partner or *locum tenens*.
- (e) The rendering of accounts for services rendered to a practitioner's own spouse/partner or dependents; provided that accounts may be rendered in respect of laboratory fees and other special investigations.
- (f) Charging for services to patients whether retrospectively or not where the practitioner did not render such services fully himself or herself: Provided that a reduced rate may be charged where the practitioner physically supervised another practitioner who rendered such services.
- (g) The charging by a practitioner for telephone consultations, email or any other electronic communication modus: Provided that a fee may be charged to patients where a *bona fide* practitioner-patient relationship exists for telephonic consultation, email or other electronic communication modus where the patient has been informed prior to said consultation or at beginning of said communications and provided that the patient has agreed to such charges; the charging of a fee commensurate to a fee charged for a full face-to-face consultation is disallowed.
- (h) Retainers, contract servicing and/or over-servicing and/or overcharging.
- (i) Provide a service or perform or direct certain procedures to be performed on a patient that are neither indicated nor appropriate.

G. PARTNERSHIPS AND JURISTIC PERSONS

- (a) Practising in a partnership or juristic person with a person not registered in terms of the Act.
- (b) Practising in association with any person not registered in terms of the Act

or in terms of the Health Professions Act, the Pharmacy Act, the Nursing Act, 2005 (Act 33 of 2005), the Social Work Act, 1978 (Act 110 of 1978), or the Dental Technicians Act, 1979 (Act 19 of 1979).

- (c) Practising in or as a juristic person not exempted from registration in terms of Section 38C of the Act or exempted from registration in terms of section 38C of the Act, but not complying with the conditions of such exemption.
- (d) Where a practitioner who is practising in a partnership, association or juristic person, practises a profession or practises outside the scope of the profession in respect of which he or she is registered with the Council.

H. COVERING

- (a) Employing as a *locum tenens* any person not registered as a practitioner of the same profession(s) for which he or she is registered with the Council or employing as a professional healthcare assistant any person not registered as a practitioner in terms of the Act or a healthcare provider in terms of the Health Professions Act or the Nursing Act.
- (b) In any way helping or supporting a person registered in terms of the Act, the Health Professions Act, the Pharmacy Act, the Nursing Act, the Social Work Act or the Dental Technicians Act in any illegal, unethical or unprofessional practice conduct by such person.
- (c) Employing, in a healthcare professional capacity, a person whose name has been removed from any register kept by the Council in terms of the Act, or any statutory health council in terms of the Acts governing such councils, or who has been suspended from practising his or her profession.
- (d) Employing any other unregistered persons acting as a healthcare provider or referring patients to such unregistered persons.

I. SUPERSESSION

In cases where he or she is, or should be, aware that a patient is under treatment by another practitioner, superseding such other practitioner, by deliberately canvassing, convincing or coercing such patient into treatment by him or herself rather than the practitioner originally in charge of the case.

J. IMPEDING A PATIENT

Impeding a patient, or someone acting on behalf of a patient, from obtaining the opinion of another practitioner or from being treated by another practitioner.

K. PROFESSIONAL REPUTATION OF COLLEAGUES

Unjustifiably casting reflection on the integrity, honesty, or professional reputation or skill of a person registered under the Act or any other healthcare legislation.

L. PROFESSIONAL CONFIDENTIALITY

Divulging any information regarding a patient which ought not to be divulged, except when required to do so by law or with the express consent of the patient or, in the case of a minor under the age of 14 years, with the written consent of his or her parent or guardian, or in the case of a deceased patient, with the written consent of his or her next-of-kin or the executor of his or her estate. A practitioner is at all times personally responsible to a patient in respect of matters relating to confidentiality, taking into account Section 15 of the National Health Act, 2003:

A health worker or any health care provider that has access to the health records of a user may disclose such personal information to any other person, health care provider or health establishment as is necessary for any legitimate purpose within the ordinary course and scope of his or her duties where such access or disclosure is in the interests of the user.

M. CERTIFICATES AND REPORTS [SECTION 23 OF THE BASIC CONDITIONS OF EMPLOYMENT ACT, 1977 (ACT 75 OF 1977)]: THE ISSUANCE OF SUCH CERTIFICATES ONLY PERMISSIBLE TO THE PROFESSIONS OF ACUPUNCTURE, AYURVEDA, CHINESE MEDICINE, CHIROPRACTIC, HOMEOPATHY, NATUROPATHY, OSTEOPATHY, PHYTOTHERAPY OR UNANI-TIBB

- (a) Granting a certificate of illness without such certificate containing the following information, namely -
- (i) The name and address of the practitioner, juristic person or partnership;
 - (ii) The professional designation, the Council registration number and the

- practice number;
- (iii) The name of the patient;
 - (iv) The employment number of the patient (if applicable);
 - (v) The date and time of the examination;
 - (vi) Whether the certificate is being issued as a result of personal observations by the practitioner during an examination, or as the result of information received from the patient and which is based on acceptable medical grounds;
 - (vii) A description of the illness, disorder or malady in layman's language with the informed consent of the patient: Provided that if such patient is not prepared to give such consent, the practitioner shall merely specify that, in his or her opinion based on an examination of such patient, such patient is unfit to work;
 - (viii) Whether the patient is totally indisposed for duty, or whether the patient will be able to perform less strenuous duties in the work situation;
 - (ix) The exact period, in days, of recommended sick leave;
 - (x) The date of issue of the certificate of illness;
 - (xi) A clear indication of the identity of the practitioner who issued the certificate; and
 - (xii) The clear signature of the practitioner who issued the certificate.
- (b) If pre-printed stationery is used, neglecting to delete words not relevant.
 - (c) Refusing to issue a brief, factual report to a patient where such patient, on reasonable grounds, requires information concerning him / herself.

N. PROFESSIONAL APPOINTMENTS

- (a) Accepting any professional appointment, which –
 - (i) had not been advertised;
 - (ii) is not in accordance with a written contract of appointment that is available to the Council on request, or
 - (iii) is in terms of a contract drawn up on a basis, which is detrimental to the interests of the public or the profession.
- (b) A practitioner holding a full-time post in a private hospital while also conducting a private practice from that same private hospital: Provided that

this rule shall not prevent a practitioner in full-time employment from also conducting a private practice provided that -

- (i) the Code of Ethics is complied with;
 - (ii) the contract of employment in terms of which the practitioner is appointed makes provision for private practice; and
 - (iii) the relevant full-time post was advertised and was re-advertised if the contents of the contract of employment were amended.
- (c) A practitioner holding a professional post in a health profession which falls outside of his or her scope of practice or other health profession for which he or she is registered with the Council: Provided that this rule shall not prevent the appointment of a practitioner -
- (i) not registered with the relative professional council in a post created on the joint staff establishment of a teaching institution and which is allocated to non-clinical departments; or
 - (ii) in a post other than that which requires registration in terms of the Act, the Health Professions Act, the Pharmacy Act, the Nursing Act, the Social Work Act, or the Dental Technicians Act.

O. SECRET REMEDIES

- (a) Making use in the conduct of his or her practice of any form of treatment or remedy, which is secret or is claimed to be secret.
- (b) Making use of any diagnostic or therapeutic apparatus or device -
 - (i) without appropriate training and experience to do so;
 - (ii) where such device is required to be registered as per the Medicines and Related Substances Act, 1965 (Act 101 of 1965), for such purposes, or
 - (iii) where the approval by the Council for the use of such a device has been declined.

P. CONSULTING ROOMS

- (a) Sharing consulting or waiting rooms with a person not registered in terms of any Act regarding health professions or having an entrance through, or a nameplate at the entrance of such a person's consulting or waiting rooms or business.

- (b) The rendering of any non-medical services to patients in the waiting rooms or on the premises of a practitioner's consulting rooms.
- (c) A practitioner having a private clinic as part of his or her practice where his or her own patients can be admitted for hospitalization or close observation, unless such clinic has been approved by the AHPCSA in terms of Section 4(1)(gA) of the Act.

Q. TAKING OF RADIOGRAPHS

For a practitioner to –

- (a) take radiographs for, on behalf of, or request radiographs to be taken by any person not registered in terms of the Act or in terms of the Health Professions Act, or
- (b) report or discuss, such radiographs with any person not registered in terms of the Act, the Health Professions Act or the Nursing Act, other than with the patient to which the radiograph relates.

R. AHPCSA STATUTORY DUTIES

- (a) Performing an act, which prevents, or is calculated to prevent, the Council, any office-bearer thereof, or the Registrar, from carrying out any duty granted by or imposed under the Act.
- (b) Communicating with a person whom a practitioner knows or should reasonably know to be a witness at a disciplinary inquiry to be held into the conduct of the practitioner concerned, on any aspect of evidence to be given by such witness at the inquiry, or on any aspect pertaining to the character, training, education or experience of such witness, or permitting, sanctioning or acquiescing in such communication on his or her behalf.

S. PERFORMANCE OF PROFESSIONAL ACTS

- (a) The performance of a professional act for which he or she is inadequately trained or insufficiently experienced.
- (b) The performance of a professional act under improper conditions or surroundings.

T. MEDICINES

Subject to Regulation 54(1)(e) of GN127 and in addition to the provisions of Section 32A(f) of the Act, a practitioner in active practice may not -

- (a) in any way distribute, sell, advertise or promote any medicine or medical device as defined in terms of the Act or as defined in the Medicines and Related Substances Control Act or any other activity which amounts to trading in medicines or medical devices, other than those used in the course of the practitioner's practice or prescribed for patients; or
- (b) engage in or advocate the preferential use or prescription of any medicine or medical device, if any valuable consideration is derived from such preferential use or prescription and where it would not be clinically appropriate or the most cost-effective option: Provided that the provisions of this subparagraph shall not prohibit a practitioner from –
 - (i) owning shares in a listed public company manufacturing or marketing medicines or medical devices;
 - (ii) subject to the provisions of the Pharmacy Act from being the owner or part-owner of a pharmacy;
 - (iii) whilst in the employment of a pharmaceutical concern in any particular capacity that is not associated with any activity or intention stipulated in paragraphs (a) or (b) but which may include professional consultancy associated with advice on product development, licensing, manufacturer of any medicine or medical device, from performing such duties as are normally in accordance with such employment;
 - (iv) dispensing in terms of a licence issued in terms of the Medicines and Related Substances Act, or
 - (v) partaking for educational purposes in lecturing on any medicine or medical device to persons registered in terms of the Act, the Health Professions Act, Nursing Act or the Pharmacy Act, as the case may be where a practitioner referred to in sub-paragraphs (b)(i), b(ii), b(iii) and (b)(iv) shall display a conspicuous notice in his or her waiting room and also duly inform his or her patient about the fact that he or she –
 - (aa) owns shares or has a financial interest in a listed public

company that manufactures or markets the medicine or medical device prescribed for that patient, or

- (bb) is in the employ of or contractually engaged by the pharmaceutical or medical device company that manufactures such medicine or medical device and shall obtain the patient's informed written consent prior to prescribing such medicine or medical device for that patient.

U. FINANCIAL INTEREST IN HOSPITALS

Where a practitioner has a financial interest in a private clinic or hospital, referring a patient to such clinic or hospital without displaying a conspicuous notice in his or her waiting room indicating that he or she has a financial interest in such clinic or hospital.

V. IMPAIRMENT

Failure on the part of a student or practitioner to -

- (a) report impairment in another student or practitioner to the Council if he or she were convinced that such other practitioner student or practitioner was impaired as described in terms of section 30(1)(a) or (b) of the Act;
- (b) self-report his or her own impairment or alleged impairment as described in section 30(1)(a) or (b) of the Act to the Council if he or she was aware of his or her impairment or had been publicly informed of being impaired or had been seriously advised by a colleague to act appropriately to obtain help in view of an alleged or established impairment.

SECTION 5: GUIDELINES FOR MAKING PROFESSIONAL SERVICES KNOWN

A. INTRODUCTION

Practitioners are bound by the convention that they should refrain from self-promotion, since patients (and their families) experiencing health concerns are particularly vulnerable to persuasive emotive advertising and publicity.

B. ETHICAL PRINCIPLES

1. Practitioners are required to give patients comprehensive professional advice and guidance on healthcare and/or alternative treatments and allow second opinions where appropriate. Neglecting or failure to respect a patient's right in this way may erode the fundamental practitioner/patient relationship on which good professional practice is founded.
2. A practitioner is at all times responsible for his or her own professional conduct.
3. Patients are entitled to protection from misleading advertising or improper promotional and competitive activities among practitioners.
4. A practitioner shall be allowed to make his or her services known or permit, sanction or acquiesce to such notice or publication: Provided that the notice or publication is not unprofessional, untruthful, deceptive or misleading or causes consumers unwarranted anxiety that they may be suffering from any health condition. Where a complaint is laid concerning any advertisement, notice or publication, the following will be taken into account -
 - (a) The motive of the practitioner concerned in arranging for or agreeing to such notice or publication;
 - (b) The nature, content and presentation of the material;
 - (c) Whether the material seeks to suggest the practitioner has particular abilities as compared with other practitioners in the same professional designation or field of practice; or
 - (d) Whether the material is published in such a manner that it is likely to attract patients / consumers to that particular practitioner, or to promote his or her professional/practice or advantage or financial benefit.
5. Making services known in an unprofessional manner and/or canvassing and/or touting for patients / consumers is regarded as unprofessional behaviour, and constitutes a breach of professional conduct, liable for censure.

C. INFORMATION THAT MAY BE INCLUDED IN NOTICES/PUBLICATIONS

1. A practitioner may make information about himself / herself or his or her practice known by notices or publications (in any medium), provided that they comply with all the provisions of these Guidelines, including change of address notices.
2. There are no limitations on the size or number of times a notice may be published.

3. Direct mailing of advertising material or notices is permissible, such as mailing to post boxes or direct delivery to home owners, but practitioners are required to take cognisance of the provisions of the Consumer Protection Act, 2008 (Act 68 of 2008) and the Protection of Personal Information Act, 2013 (Act 4 of 2013), with regard to the concept of direct marketing; a practitioner should implement appropriate procedures to accommodate a consumer / patient's right to restrict unwanted direct marketing.
4. Notices or publications may be made available for issue to existing patients at the rooms of the practitioner and also at local information centres such as libraries and museums to persons enquiring about a practitioner's practice or available services.
5. Bulk distribution of advertising material or notices, for example at shopping malls and to passing motorists, is not permissible.
6. The use of photographs of –
 - (a) the practitioner, other than publication of a head and shoulders photograph, on a website on the associated profile page;
 - (b) any patient, or
 - (c) any other person, unless written consent has been obtained from the third party and the photograph is only used for purpose as explained to the third party, which shall not amount to any therapeutic claim or testimony,on notifications or publications is not permissible.
7. Notices on public road signposts, dustbins, cars and the like is not permissible.
8. Notices or publications are limited to include information as per Section 4: E: INFORMATION ON PROFESSIONAL STATIONERY, including a statement of –
 - (a) Field(s) of practice, where a practitioner –
 - (i) limits, or for the most part, limits his or her practice to that field of practice, and
 - (ii) assumes a legal and ethical responsibility for having acquired a level of professional competence within that field of expertise which must be demonstrable and acceptable to his or her peers, or
 - (b) Field(s) of interest where a practitioner –
 - (i) need not limit his or her practice to that field of interest but can demonstrate an area of expertise, training, or experience which is substantially different to that regarded for general practice;
 - (ii) may not claim more than three fields of interest, and

- (iii) assumes a legal and ethical responsibility for having acquired level of professional competence within that field of expertise which must be demonstrable and acceptable to his or her peers,

where prior to the use of any such statement, declaration or reference that such has been ratified by the Council following approval by the professional board.

9. Information on payment arrangements must be limited to statements relating to formal arrangements, e.g. "credit cards acceptable", "cash only", etc.
10. Reference may not be made to discounts or quantum of fees, incentives, or any special arrangements.
11. The aim of publication of notices is solely to inform patients of the whereabouts of practitioners.
12. No claims of healing or curing may be made.

D. PUBLIC DEMONSTRATIONS

Public demonstrations on patients are not permissible: Provided that the provisions of this subparagraph shall not prohibit a practitioner from performing such acts that may be regarded as the normal treatment of patients for the purposes of educating students.

E. ADVERTISING OF EMPLOYMENT OPPORTUNITIES

It is permissible to advertise an employment opportunity in relevant professional journals, or in any other media.

F. DUTY OF A HEALTHCARE PROFESSIONAL WHO IS IN A RELATIONSHIP WITH OR IN THE EMPLOY OF INDEPENDENT ORGANISATIONS OFFERING OR ADVERTISING CLINICAL, DIAGNOSTIC OR HEALTHCARE ADVISORY SERVICES SUCH AS A PRIVATE HOSPITAL, GYMS, OR HEALTH SPAS (EXCLUDING THE REPRESENTATION OR FUNCTION OF HEALTHCARE PROFESSIONALS FOR NON-PROFIT ORGANISATIONS RAISING AWARENESS FOR VARIOUS CAUSES)

1. Any practitioner in relationship with or in the employ of an independent organisation as indicated above or who intends to enter into such relationship or employment:
 - (a) May only do so on the basis of a written contract or agreement that must –
 - (i) be made available to the Council, or professional board prior to acceptance of the appointment; or
 - (ii) be made available at the request of the professional board in the case of existing contracts as per Regulation 54(4) of GN R127;
 - (b) Must satisfy himself or herself before entering into a contract or written agreement with such organisation that:
 - (i) the advertisements of or promotional activities of the organisation concerned are factual;
 - (ii) such advertisements do not promote the personal qualities or services of individual practitioners connected with it;
 - (iii) such advertisements do not make invidious comparisons with the services of the state or with those of other organisations, practitioners or other healthcare providers;
 - (iv) the organisation directs patients to first consult their own practitioners prior to offering services rendered by the organisation;
 - (v) Patients referred to the practitioner are not likely to be attracted by misleading or promotional advertisements issued by the organisation, gym or health spa;
 - (vi) No commission or other payment has been made or will be made on behalf of the organisation for the referral of such patients.
2. Must avoid personal involvement in promoting the services of such an organisation, for example by public speaking, broadcasting, writing articles or signing circulars;
3. Must not permit his or her qualifications and status to be used in the organisation's promotional activities;
4. Must not allow his or her personal practice address or telephone number(s) or other electronic contact details to be used as an enquiry point on behalf of such organisation;

5. Must satisfy himself or herself that organisations that provide specialist services are aware of these guidelines;
6. Must ensure that his or her name and qualifications are not used on reports, notices, notepaper or other stationery of such organisation.

G. PRACTICE NOTICES TO PATIENTS

1. Practitioners may communicate with their patients with whom they hold a *bona fide* practitioner-patient relationship via practice notices, including newsletters, but such communications may not be distributed to the public at large, except with the explicit permission of the patient only.
2. These notices may include information about the practitioner's change in practice arrangements, healthcare information and changes in tariff structures.

H. COMMUNICATION WITH COLLEAGUES

It is permissible, common practice and should be encouraged amongst practitioners to communicate the setting up of a practice or practice address changes to colleagues.

I. DIRECTORIES AND PUBLIC LISTS

1. Prospective patients and other practitioners should have ready access to accurate, comprehensive, and well-presented information about the practitioners practising in their area in order to make informed choices.
2. Directories and public lists, either printed or electronic, with the names of practitioners, their practice details and qualifications may be distributed for the benefit of members of the public and peers.

J. OUTSIDE SIGNS AND NAME-PLATES (OUTSIDE THE PHYSICAL PRACTICE)

1. Signs and name-plates may not be larger than 360mm X 250mm and shall display following information, namely -
 - (a) Names (initials) and surname of the practitioner;
 - (b) Professional designation;
 - (c) Practitioner qualifications;
 - (d) Telephone number(s); and

(e) Consulting hours,

provided that where a practitioner prefers that particulars concerning telephone numbers and consulting hours should not be affixed on to such name-plate, a separate plate, not larger than 360mm X 250mm, indicating the practitioner's telephone number(s) and consulting hours may be affixed directly under such name-plate.

2. Logos may be used on outside signs and name-plates, provided that the size of the logo is commensurate with the overall composition of the sign or name-plate and that there is no breach of any copyright, intellectual property issues or otherwise.
3. Only one outside sign may be used, except in the case of a large complex with more than one entrance where a sign may be placed at each entrance. The sign should be placed on the premises where the practice is situated, or, at most, at the street corner closest to the premises.
4. A name-plate may be used on the door of the consulting room.
5. In the case of occupants of large complexes where special provision is made in the entrance hall and on the various floors to indicate the tenants, it shall be permissible to make use of such provision.
6. If necessary, in large complexes, a name-plate with the name of the practitioner only, may be used in the corridor for the direction of the patients.
7. An outside sign indicating "PRIVATE PARKING FOR" (indicating the street name and number only) will be permissible (for example PRIVATE PARKING FOR 23 FORD STREET).
8. In the event of a change in the membership of a company, partnership, or association, the original name-plate may be displayed for a period of six months whereafter a name-plate with the current information shall be displayed. Should a practice move to other premises, the name of the practice and the new address may also be displayed at the vacated address for six months.
9. If an illuminated sign is used, the only sources of illumination may be a constant white light.

K. PRACTICE NAMES

1. Practitioners may use as the name of a practice their own names and/or the names of their partners, directors or associates or the name of one or of certain

- partners or associates or directors, together with the words “and partners”, “incorporated” or “and associates”, as the case may be.
2. Descriptive trade names for the practices may not be used.
 3. The use of an expression for a practice or building name such as “hospital”, “clinic” or “institute” or any other special term which could create the impression that a practice is, or forms part of, or is in association with a hospital, clinic or similar institution, may not be used.
 4. With respect to building names -
 - (a) a building occupied by practitioners may have a name indicating the profession of the occupants only if there are at least two such independent professional practices in the building (e.g. Chiropractic Centre, Homoeopathic Centre, Acupuncture Centre);
 - (b) where only one of any category of professional practice is conducted in the building, the name of the building may not refer to that profession; or
 - (c) in the case of practitioners of different professions practising in the same building, the name “Health Centre” may, however, be used.
 5. Personal liability companies and partnerships falling in the same category may not be indicated as “practicing as” or “trading as”.

L. PRACTITIONERS AS AUTHORS

1. A practitioner who is the author or co-author of books or academic articles may mention his or her own name as author or co-author, as the case may be, and indicate his or her professional standing as this promotes the profession’s duty to disseminate information about advances in health sciences.
2. Practitioners with the necessary knowledge and skills may participate in the presentation and discussion of health topics by means of public addresses or through the printed or electronic media to lay audiences, provided that no information about their standing is given which may imply that a practitioner is the only, the best, or the most experienced in his or her particular field.
3. Practitioners should not divulge details of their practices when participating in the aforementioned presentations or discussions as this may be construed as touting or canvassing for patients.
4. Practitioners acting as spokespersons for an organisation or institution may be named. It should also be stated explicitly that such practitioners cannot offer

individual advice to patients while on the programme or in any article. In such instances, practitioners may not promote their own practices, but should instead only promote the profession, discuss associated general healthcare matters or policy and direct any patient enquiries to see a registered practitioner.

M. FACEBOOK/OTHER SOCIAL MEDIA INTERACTION

1. The utilization of any social media (not limited to social networks such as FACEBOOK) may take place within the provisions of the relevant laws and regulations, including, but not limited to, the laws and regulations applicable to the professions registered under the AHPCSA.
2. The AHPCSA recognizes, and respects, that freedom of expression, an entrenched right within the Constitution of the Republic of South Africa, is a necessary and fundamental tenet of democracy – this right is not absolute, however, and is therefore limited by the Constitution and other aspects of law.
3. Section 36 of the Bill of Rights provides for the limitation of a right to the extent that the limitation is reasonable and justifiable in an open and democratic society, based on human dignity, equality and freedom, taking into account all relevant factors including among other things the nature of the right and the nature and extent of the limitation. This limits the exercise of one's own right in terms of the constitution, while it promotes the prohibition of infringing on another person's rights.
4. No practitioner may interact on social networks in any manner which might be construed as defamatory or might fall into the lesser category of *contumelia*, or insult, either to other individual practitioners, to the profession as a whole or to the AHPCSA itself; these interactions infringe on the rights enjoyed by parties so affected.
5. Social media should never be used in a way that breaches any of the prescribed Code of Ethics, policies or regulations. Practitioners are prohibited from using social media to:
 - (a) breach any of the prescribed policies, regulations or Code of Ethics;
 - (b) breach obligations with respect to the rules and regulations of the AHPCSA or any other organization;
 - (c) breach any obligations they may have relating to confidentiality;

- (d) defame or disparage the AHPCSA or any of its employees or members, practitioners or patients, suppliers, vendors or other stakeholders;
 - (e) harass or bully any person in any way ;
 - (f) unlawfully discriminate against any person; and
 - (g) breach any other laws or ethical standards (for example, never use social media in a false or misleading way, such as by claiming to be someone other than yourself or by making misleading statements).
7. Practitioners may not provide direct reference to another healthcare provider to any individual on any social media platforms.
 8. Limitations on advertising have at the core the fiduciary relationship between a practitioner and the patient, with protection of the patient being the overriding principle; trust between the practitioner and patient is critical for the ultimate well-being of any patient.
 9. The manner and extent of social media interaction also bears reflection within the paradigm of the Consumer Protection Act, 2008 (Act 68 of 2008). Any claims made by practitioners on social media sites are also subject to the provisions of the Act and any other related legislation.
 10. Interaction with any patient on any open web- or social media site accessible by the public or any other third party (other than the practitioner and consumer/patient) in a manner that is associated with the condition of that patient or constitutes medical advice is disallowed.
 11. The ethical and legal duty to protect patient confidentiality applies equally on Internet as to other media.
 12. Practitioners who post online have an ethical obligation to declare any conflicts of interest.
 13. The AHPCSA advises practitioners not to accept as friends, followers or any other means of interaction, any patient onto any personal social media profile.
 14. The AHPCSA further advises that practitioners should be conscious of their online image and how it may impact on their professional standing or the professional standing of their profession.

N. GENERAL

1. Notifications concerning practitioners who stand in a relationship with private hospitals, clinics, gyms and health spas, must in all respects conform to these guidelines.
2. The Council and/or the professional board retain the final authority for deciding on the acceptability, the content and format of notifications put out by practitioners.
3. Disciplinary cases pertaining to practitioners who are in breach of the guidelines for making professional services known, as contained in this document, will be dealt with in a manner that will result in the finalisation of these cases within the shortest possible period of time.
4. In the case of uncertainty about the application of these guidelines or in the case of intended promotional action or notifications that are not covered within these guidelines, practitioners should consult the Council for appropriate guidance. Professional associations should on their part, in the case of intended promotional actions or notifications not covered in these guidelines, make appropriate recommendations to the Council on how to deal with such matters.

¹ Principles of Medical Ethics, American Medical Association, www.asa-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/principles-medical-ethics.page2#, accessed 20131114

Material used has been sourced from:**The Medical and Dental Professional Board's Booklets "Guidelines for Good Practice in Medicine, Dentistry and Medical Sciences"**

The Allied Health Professions Act and Regulations

The Health Professions Act and Regulations

The Department of Health's "National Patients' Rights Charter"

The Physicians for Human Rights of USA document on Dual Loyalty and Human Rights